

February 22, 2013

RECEIVED  
FEB 26 2013**Via Certified Mail**

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW (2822T)  
Washington, DC 20460

Re: Pebble Limited Partnership Freedom of Information Act Request

Dear Sir or Madam:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and implementing regulations of the U.S. Environmental Protection Agency ("EPA"), 40 C.F.R. Part 2, the Pebble Limited Partnership ("PLP"), by and through its counsel, Crowell & Moring LLP, hereby requests a copy of the following records:

1. All documents provided in response to document request items 2 and 3 in Rep. Darrell Issa and Rep. Jim Jordan's September 24, 2012 letter to EPA Administrator Lisa Jackson on behalf of the U.S. House of Representatives Committee on Oversight and Governmental Reform ("Committee"). This request includes all documents provided in response to the Committee's requests for:
  - (2:) "A transcript of all sessions of the peer review meeting on August 7-9, 2012, including the August 9<sup>th</sup> closed-door session as well as any other closed-door meetings between the peer review panel and EPA."
  - (3:) "All documents and communications referring or relating to the peer review panel's review of the Bristol Bay watershed assessment, including communications between the peer reviewers and EPA, as well as internal EPA communications."
2. Any privilege logs provided to the Committee, as specified in Item 12 of the Committee's attachment entitled "Responding to Committee Document Requests." In addition, to the extent such privilege logs do not already do so, we request that EPA identify the grounds upon which any listed documents were withheld, including the basis for any assertion of deliberative privilege.

For the purposes of these requests, "documents" refers to all electronic, written or graphic matter, however produced or reproduced, including but not limited to correspondence, e-mails, notes, interoffice communications, reports, memoranda, minutes, summaries, telephone records,

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telephone message logs, or slips, PowerPoint presentations, spreadsheets, maps, photographs, video or audio recordings, data compilations, or calendars.

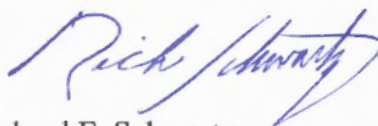
For your convenience, you will find enclosed a copy of the September 24, 2012 letter to Administrator Jackson from the Committee on Oversight and Government Reform, including the Committee's requests for documents and the attachment on responding to Committee requests.

Please send a copy of all responsive documents, privilege logs (to the extent applicable), and any bill for reasonable FOIA fees to the following address:

Richard Schwartz  
Crowell & Moring LLP  
1001 Pennsylvania Ave., N.W.  
Washington, DC 20004-2595

Please call me at (202) 624-2905 if you have any questions related to this matter. We thank you for your assistance.

Sincerely,



Richard E. Schwartz  
Crowell & Moring LLP  
1001 Pennsylvania Ave. NW  
Washington, DC 20004-2595  
(202) 624-2905  
rschwartz@crowell.com

cc: Cara Steiner-Riley

Attachment (1) – September 24, 2012 letter to Administrator Jackson from U.S. House Committee on Oversight and Government Reform



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LAWRENCE J. BRADY  
STAFF DIRECTOR

ONE HUNDRED TWELFTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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WASHINGTON, DC 20515-6143

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September 24, 2012

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Dear Administrator Jackson:

The Oversight and Government Reform Committee is continuing its oversight of the U.S. Environmental Protection Agency's (EPA) actions related to preliminary environmental permitting for the Pebble Project in Southwest Alaska near Bristol Bay.<sup>1</sup> On May 18, 2012, EPA released a watershed study entitled, "An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska" ("Assessment") for public comment.<sup>2</sup> In addition, EPA created a peer review panel charged with reviewing the Assessment.<sup>3</sup> Based on comments by the peer review panel at a public meeting on August 8, 2012, it appears that there are many questions about the quality and accuracy of the Assessment.<sup>4</sup>

On August 7-9, 2012, EPA held a peer review meeting in Anchorage, Alaska for the panel to discuss the "scientific and technical merit of the draft water assessment."<sup>5</sup> Two of these days were open to the public, while the third day featured a closed-door meeting between the peer review panel and EPA officials.<sup>6</sup> According to EPA Region 10 Administrator Dennis McLaren, the "esteemed group of 12 highly qualified scientists" was asked to report to EPA their feelings about the Assessment.<sup>7</sup> Statements by members

<sup>1</sup> Pebble Project, Alaska Dep't of Nat. Resources: Mining, Land & Water *available at* <http://dnr.alaska.gov/mlw/mining/largemine/pebble/>.

<sup>2</sup> U.S. EPA, An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska, *available at* [http://www.epa.gov/ncea/pdfs/bristolbay/bristol\\_bay\\_assessment\\_erd\\_2012\\_voll.pdf](http://www.epa.gov/ncea/pdfs/bristolbay/bristol_bay_assessment_erd_2012_voll.pdf).

<sup>3</sup> U.S. EPA, Bristol Bay Assessment, Charge Questions to Peer Review Panel, *available at* [http://www.epa.gov/region10/pdf/bristolbay/final\\_peer\\_review\\_charge\\_questions.pdf](http://www.epa.gov/region10/pdf/bristolbay/final_peer_review_charge_questions.pdf).

<sup>4</sup> Transcript, EPA Peer Review Testimony, Aug. 7-8, 2012 (on file with author); Tim Bradner, *Pebble Study Needs Work, Some Say*, Peninsula Clarion, Aug. 18, 2012.

<sup>5</sup> Bristol Bay, U.S. EPA Region 10: the Pacific Northwest, *available at* <http://yosemite.epa.gov/R10/ECOCOMM.NSF/bristol+bay/bristolbay>.

<sup>6</sup> U.S. EPA, External Peer Review Meeting for "An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska, Draft Agenda, *available at* [http://www.epa.gov/region10/pdf/bristolbay/peer\\_review\\_meeting\\_agenda\\_august2012.pdf](http://www.epa.gov/region10/pdf/bristolbay/peer_review_meeting_agenda_august2012.pdf).

<sup>7</sup> Transcript, EPA Peer Review Testimony, Aug. 7-8, 2012 (on file with author).

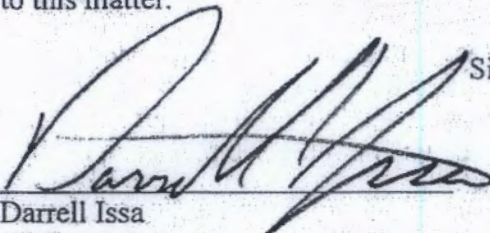


1. A list of similar watershed assessments undertaken by EPA, including the length of time it took to complete those assessments.
2. A transcript of all sessions of the peer review meeting on August 7-9, 2012, including the August 9<sup>th</sup> closed-door session as well as any other closed-door meetings between the peer review panel and EPA.
3. All documents and communications referring or relating to the peer review panel's review of the Bristol Bay watershed assessment, including communications between the peer reviewers and EPA, as well as internal EPA communications.

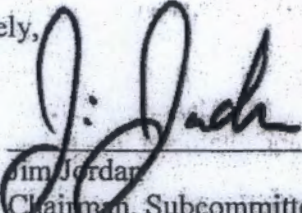
The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

We ask that you provide the requested information as soon as possible, but no later than 5:00 p.m. on October 8, 2012. Please directly respond to each question and request as numbered herein. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

If you have any questions about this request, please contact Joseph Brazauskas or Ryan Hambleton of the Committee Staff at 202-225-5074. Thank you for your attention to this matter.

  
Darrell Issa  
Chairman

Sincerely,

  
Jim Jordan  
Chairman, Subcommittee on  
Regulatory Affairs, Stimulus Oversight  
And Government Spending

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

The Honorable Dennis Kucinich, Ranking Minority Member  
Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending



CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been



3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term "employee" means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.